

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

IN RE: Karen Zelazny and Mark Zelazny

US Bank National Association, as Trustee for
Citigroup Mortgage Loan Trust, Inc. 2006-
HE3, Asset-Backed Pass-Through Certificates
Series 2006-HE3,

VS.

Karen Zelazny and Mark Zelazny

CHAPTER 7
CASE NO. 11-13694-ANV

MOTION FOR RELIEF FROM STAY AND MEMORANDUM IN SUPPORT THEREOF

To the Honorable Arthur N. Votolato:

US Bank National Association, as Trustee for Citigroup Mortgage Loan Trust, Inc. 2006-HE3, Asset-Backed Pass-Through Certificates Series 2006-HE3, your moving party in the within Motion, respectfully represents:

1. The movant has a mailing address of 7495 New Horizon Way, Frederick, MD 21703.
2. The debtors, Karen Zelazny and Mark Zelazny, have a mailing address of 59 Robinson Way, West Warwick, RI 02893.
3. On September 20, 2011, the debtors filed a petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Rhode Island.
4. The movant is the holder of a first mortgage on real estate in the original amount of \$344,000.00 given by Mark Zelazny to Mortgage Electronic Registration Systems, Inc. on or about October 13, 2006. Said mortgage is recorded with the West Warwick Land Records at Book 1798, Page 21, as affected by a Declaratory Judgment at Book 2116, Page 235, and covers the premises located at 59 Robinson Way, West Warwick, RI 02893.
5. Said mortgage secures a note given by Mark Zelazny to Mortgage Electronic Registration

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Systems, Inc. in the original amount of \$344,000.00.

6. The mortgage was assigned from Mortgage Electronic Registration Systems, Inc. to movant.
7. As of October 6, 2011 , approximately \$476,287.06 in principal, interest, late fees and other charges was due with regard to the note and mortgage. Additionally, reasonable attorney's fees and costs have accrued as a result of this motion.
8. There are the following encumbrances on the property:

<u>Name of Creditor</u>	<u>Type of Lien</u>	<u>Amount Owed</u>
U.S. Bank, N.A. as Trustee	Mortgage	\$476,287.04
Doris Graham	Attachment	\$48,186.07
Domestic Bank	Execution	\$3,768.47
Wayne Lambert	Execution	\$22,192.22
Total Secured Encumbrances:		\$550,433.80

9. According to the West Warwick Assessor's Database, the assessed value of the subject property is \$290,400.00.
10. The note and mortgage are in default for the January 1, 2009 payment and all payments thereafter, plus reasonable attorney's fees and costs and other charges incurred by the movant.
11. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief:

I. Pursuant to 11 U.S.C. 362 (d)(1) for cause on the basis that the debtors are in default on said contractual obligations, the primary purpose of a Chapter 7 proceeding is to liquidate the assets of the debtors, there is no equity and the trustee has no motivation to liquidate the subject property;

II. Pursuant to 11 U.S.C. 362 (d)(2) on the basis that there is no equity in the

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subject property and, there being no reorganization in prospect, the property is not necessary for effective reorganization.

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of: (i) exercising its rights under its agreements with the debtors and under applicable law, including, without limitation, taking possession of the mortgaged premises and/or foreclosing or accepting a deed in lieu of foreclosure of its mortgage on said premises, and bringing such actions, including, without limitation, eviction proceedings, as are permissible by law; (ii) the Court waive the provisions of F.R.B.P. 4001 (a)(3); and (iii) the Court order such other and further relief as may be just and proper.

Respectfully submitted,

US Bank National Association, as Trustee for
Citigroup Mortgage Loan Trust, Inc. 2006-HE3,
Asset-Backed Pass-Through Certificates Series 2006-
HE3,

By its Attorney

/s/ Kathryn A. Fyans

Kathryn A. Fyans, Esquire, RI #7360

HARMON LAW OFFICES, P.C.

P.O. Box 610345

Newton Highlands, MA 02461-0345

781-292-3900

ribk@harmonlaw.com

October 12, 2011

Within fourteen (14) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

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CERTIFICATE OF SERVICE

I, Kathryn A. Fyans, Esquire, state that on October 12 , 2011, I electronically filed the foregoing Motion for Relief and Proposed Order with the United States Bankruptcy Court for the District of Rhode Island using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Gary L. Donahue, Esquire, Assistant U.S. Trustee, ustpregion01.pr.ecf@usdoj.gov

Charles A. Pisaturo, Jr, Esquire, Chapter 7 Trustee, cpisaturo@earthlink.net

John Ennis, Esquire for Debtors, jbelaw@aol.com

Lynda Laing, Esquire to Domestic Bank, llaing@straussfactor.com

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Kathryn A. Fyans

Kathryn A. Fyans, Esquire

RI# 7360

Karen Zelazny
59 Robinson Way
West Warwick, RI 02893

Mark Zelazny
59 Robinson Way
West Warwick, RI 02893

Doris Graham
1256 N. 400 West
Marion, IN 46952

Domestic Bank
815 Reservoir Avenue
Cranston, RI 02910-4442

Wayne Lambert
266 Sisson Rd.
Greene, RI 02827-1733

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